BOSTON UNIVERSITY

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Thesis

THE TRADE DISPUTES AND TRADE UNIONS BILL OF 1927

Submitted by

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OUTLINE

In the course of the debate in the House of Commons on the Trade Disputes and Trade Unions Bill of 1927 a member representing the Labor Party said: "No more important event which so vitally affects the industrial life of the nation has taken place during the last 100 years. . . . . If this Bill were given its proper title it might be described as a Bill for the repeal of all the trade union legislation passed since 1824."[1]

While this is putting the case somewhat too strongly, it is nevertheless true that the Bill was designed to make several important alterations in the existing laws and to modify the status of the trade unions.

To gain an adequate comprehension of the importance of the Bill in the history of the trade-unionism, it will be necessary to survey briefly the steps by which the trade unions gained the degree of political power and legal and financial privileges which they enjoyed at the time of the introduction of the 1927 Bill.

The history of trade-unionism since 1870 has been characterized in general by a series of legislative acts increasing the freedom and security of the unions, by a growth of political power, and by several unfavorable judicial decisions later reversed by legislation.

1. The Parliamentary Debates: Official Report. Fifth Series - Vol. 205, Column 1579

I

I. Brief history of the rise of trade-unionism since 1870

A. Legal recognition

1. Act of 1871

During the decade preceding the Act of 1871, which first gave legal recognition to trade-unionism, the unions had grown rapidly both in membership and in wealth. The formation of great amalgamated societies indicated the increasing scope of the trade union movement; while the appearance of Trades Councils, uniting local unions and branches, foreshadowed the attempt to form a united labor movement which should include all trades.[1]

Many of the trade unions, lacking legal recognition, took advantage of the Friendly Societies Act (1855) which "allowed societies established for any purpose not illegal to deposit their rules with the Registrar of Friendly Societies and have disputes among their own members dealt with summarily by the magistrates."[2] The unions did this in the belief that it would afford them a means of protection against a member who used their funds wrongfully. In a case brought by the Boilermakers' Society in 1866, however, it was decided that the society could not proceed under the Friendly Societies Act. The case was appealed to the Court of Queen's Bench, headed by the Lord Chief Justice, and this decision was upheld, the court declaring that trade unions were illegal associations.[2]

1. Cole, G. D. H. The British Labour Movement, pp. 11-12
2. Slater, G: Making of Modern England, pp. 208-209

This decision, increasing the need of legal security for the unions, came at a time when the employers and the public were hoping for the suppression of the unions by law. The growing power of the unions had led to opposition on the part of the employers, who had formed associations and had declared a number of lock-outs. Failure to break up the unions by this method led to a hope of legislative aid. The general public, aroused by several cases of violence, notably the Sheffield outrages of 1866, and opposed to the loss and inconveniences caused by strikes and lock-outs, also was coming to favor the enactment of laws restricting or entirely suppressing the unions.

A Royal Commission of Inquiry, appointed in 1867 to investigate cases of violence in Sheffield, Manchester, and elsewhere, reported that trade-unionism as a whole was not responsible for the criminal acts investigated. The Commission recommended that trade unions be legalized under certain conditions, one of the most significant in the light of the Trade Disputes and Trade Unions Bill of 1927 being that registration should be refused to societies whose rules authorized the support of disputes in other trades.

A minority report filed by Frederic Harrison, Thomas Hughes, and the Earl of Lichfield set forth the principles, frequently cited in the debates on the 1927 Bill, that an act committed by a workman should not be illegal unless equally illegal if committed by any other person, and that an act by a combination of men should not be criminal unless criminal if committed by a single person.

Harrison realized that merely legalizing the trade unions would lay them open to the danger of legal proceedings. Accordingly he recommended that the trade unions should be brought under the Friendly Societies Act in order to protect their funds against misuse, but that they should retain their incorporate status in order that lawsuits might not be brought against them.[1]

By 1869 Harrison had drafted a Bill embodying the principles of the minority report. The Government finally agreed to a second reading of this Bill with the understanding that the Cabinet should bring in a Bill of its own the next year.[2]

The Government Bill, as introduced by the Home Secretary in 1871, proposed to grant the points upon which the leaders of the trade union movement had insisted.

(1) No trade union was to be illegal merely because it was "in restraint of trade."

(2) Every union the rules of which were not in contravention of the criminal law was to be entitled to registration.

(3) Registration should protect the union funds without interfering with the internal organization of the union or making it liable to be proceeded against in a court of law.[3]

The old Combination Laws were repealed by the Bill, but a new penal law against workmen was substituted which made strikes practically impossible. Punishments were provided for threats or molestations for the purpose of coercing employees. Picketing was expressly forbidden

1. Webb: History of Trade Unionism, p. 271
2. " " " " " pp. 274-75
3. " " " " " p. 276

in a clause prohibiting "persistently following" any person or "watching and besetting the premises" in which he was. The Act of 1859, which had legalized peaceful persuasion to join combinations, was repealed.

Sidney and Beatrice Webb, in discussing the "Third Clause," which contained these restrictions, say: "It seemed only too probable that the Government measure would make it a criminal offense for two Trade Unionists to stand quietly in the street opposite the works of an employer against whom they had struck, in order to communicate peacefully the fact of the strike to any workman who might be ignorant of it."[1]

The Bill of 1871 as thus drafted would legalize trade unions but at the same time deprive them of the means of gaining their objects. The ordinary peaceful methods employed by striking workmen were made criminal offenses. A national Trade Unions Congress was called and opposed the Third Section. The only concession it obtained was the division of the Bill into two sections. The Third Section became the Criminal Law Amendment Bill. Both Bills were passed and became law.

Several of the larger societies registered under the Act of 1871. Dissatisfaction with the Criminal Law Amendment Act led to agitation for its repeal, which met with no definite results until the autumn of 1874. Meanwhile many cases had been brought under this Act. Men were imprisoned for peacefully accosting a workman in the street, for using bad language, for inducing men not to work at a struck shop, etc. In 1871 seven women were actually imprisoned for saying "Bah" to a blackleg.[2]

1. Webb: Hist. of Trade Unionism, p. 277
2. " " " " " 284

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1. Webb: Hist. of Trade Unionism, p. 277
2. " " " " " 264

In December, 1872, a sentence of a year's imprisonment was imposed on some London gas-stokers for "conspiracy" to molest or coerce employers by preparing for a strike. The governing classes justified this sentence on the ground that such a strike would be a danger to the community.[1] This is a foreshadowing of the definition of illegal strike in Clause 1 of the 1927 Bill.

The trade unionists saw the danger in such a sentence, since it might be applied to those striking in any trade. Agitation was begun to remove all penal legislation concerning trade disputes.

The Liberal Government persisted in its refusal to alter the existing laws. The Conservative Party, coming into power in 1874, proved more readily influenced by the growing political power of the unions.

1. Webb: Hist. of Trade Unionism, p. 285

2. Acts of 1875-6

The Acts of 1875-6 greatly improved the position of the trade unions. The Criminal Law Amendment Act was repealed. The Conspiracy and Protection of Property Act, which replaced it, set more reasonable and definite limits to the extent to which the law of conspiracy might be applied to trade disputes.[1]

The Employers and Workmen Act placed the employer and employee upon an equal basis as parties to a civil contract. Imprisonment for breach of engagement was abolished. The means used by trade unions to accomplish their ends were legalized. Peaceful picketing was expressly permitted, and cases of violence and intimidation were to be dealt with under the general criminal code. An action by a group was not to be criminal unless equally criminal if committed by an individual. "Collective bargaining, in short, with all its necessary accompaniments, was, after fifty years of legislative struggle, finally recognized by the law of the land."[2]

1. Webb: Hist. of Trade Unionism, p. 291
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1. Webb: Hist. of Trade Unionism, p. 291

2. " " " " p. 291

B. Growth of political power

1. Representation in Parliament

The enactment of so much industrial legislation showed the trade unionists the desirability of representation in the House of Commons. Gladstone's refusal in 1872 to consider changing the trade union laws had resulted in a general agitation, and in the election of 1874 thirteen trade union members were candidates. Two of these men were elected, without opposition by the Liberal Party. The Labour Representation League, first forerunner of the present Labor Party, had fostered their candidatures.

At the Trade Union Congress of 1874 it was announced that several societies, among them miners and ironworkers, had appropriated money to support trade union men as candidates for Parliament. This seems to be the beginning of political funds collected by trade unions.

From 1874 until the establishment of the Labor Party there was in every Parliament a group of members elected from the working class with the support of the Liberals and acting as a part of the Liberal Party in Parliament. An organization known as the Independent Labour Party, formed in 1893, was without success in supporting candidates for Parliament.

The modern Labor Party, which had its beginning in the Labor Representation Committee formed in 1900, also met with but slight success at first. The Labor Representation Committee was made up of an alliance of the trade unions, the co-operative societies, and the Socialist societies, with the exception of the Social Democratic Federation. After a slow beginning,

by 1902 the Labor Representation Committee succeeded in practically doubling the number of adhering trade unions and trade councils and the total membership. The Miners' Federation in 1902 voted a levy of a penny a month to create a Parliamentary Fund. Between 1902 and 1906 three out of six of the Labor Representation Committee candidates were successful in contesting bye-elections.

One of the greatest incentives to the growth of the Labor Representation Committee had been the Taff Vale Decision of 1901.[1] The subsequent general election in 1906 showed the effect of the decision on the political activities of the Labor movement. Twenty-nine of the fifty independent Labor candidates in this election were successful. They formed a separate party in the House of Commons. The Labor Representation Committee changed its name to "Labor Party."

In 1909 the Miners' Federation went over to the Labor Party, taking eleven of their fourteen parliamentary members from the Liberal benches to the support of the new party, and thus ending the Liberal-Labor group which had existed since 1874.

The Osborne Judgment, preventing the trade unions from applying their funds to political purposes, together with the opposition of the Liberal leaders, served chiefly to stimulate the growth of the new party among the trade unions.

The following table gives a summary of the progress of the Labor Party in parliamentary representation and in political strength.[2]

1. See p. 15

2. Labour Year Book 1925, p. 189

General Election	Seats Contested	Members Returned	Labor Vote
1900	15	2	62,698
1906	50	29	323,195
1910 (Jan.)	78	40	505,690
1910 (Dec.)	56	42	370,802
1918	361	57	2,244,945
1922	414	142	4,236,733
1923	427	191	4,348,379
1924	514	151	5,487,620

The period of most rapid growth began in 1918, reaching its climax in the Labor Government of 1924.

Conditions during and immediately after the war made possible a Labor government. The Labor Party in Parliament had officially adopted socialism as an aim. The Defense of the Realm Acts passed during the war had put industries, transportation, etc., under government control. England had been practically socialized, and a great saving had resulted. Labor policies had been tried out with beneficial results.

The unemployment, with its consequent misery, which followed government "decontrol" after the war was another reason for the growth of the Labor Party. Demobilization, discharge of government employees, and difficulties in readjusting industry to peace-time conditions made the problem of unemployment acute. The Labor Party made the relief of unemployment one of the outstanding features of its platform.

In 1918 the first general election held in eight years was a decided victory for Premier Lloyd George's Coalition government, which won 478 seats. The Labor Party, although it made a considerable gain and was the largest opposition group, was obliged to share the position of official Opposition with the Asquith Liberals.

By 1922, however, the Coalition broke up, as the Conservatives favored a return to normal party government. The election of that year resulted in 336 seats for the Conservative Party, 110 for the Liberals (divided between adherents of Asquith and of Lloyd George), and 144 for

Labor. This election gave the Labor Party its first experience as official Opposition. Ramsay MacDonald was chosen as party leader.

When Premier Baldwin called a general election in 1923 on the question of imperial preference, the results were:

Conservative	259
Liberal	150
Labor	192

The Conservatives found it impossible to form a government, and the Labor Party took office in February 1924, with Ramsay MacDonald as Premier.

The Labor Government remained in office nine months. Lacking a majority, its power was decidedly limited. It did, however, show considerable competence in office. Snowden's budget was the greatest achievement. The foreign policy, under Ramsay MacDonald's administration, was good. The problem of unemployment, however, remained unsolved.

The experience in office gave good political training and made the Labor Party a better Opposition.

The election of November, 1924, resulted in 150 seats for the Labor Party, 440 for the Conservatives, and 30 for the Liberals. The Labor Party had definitely replaced the Liberals in prominence.

2. Relation of trade-unionism to Labor Party

The trade unions played an important part in the growth of the Labor Party. The Labor Party had its origin in an alliance of trade unions and the Socialist societies. The Webbs give the Socialist members the credit for contributing the necessary zeal and political talent, while the trade unions have brought in a more extensive membership.[1]

The following figures indicate the preponderance of the trade union membership:[2]

LABOUR PARTY MEMBERSHIP

	Trade Unions		Socialist, etc. Societies		Total
	No.	Mem'ship	No.	Mem'ship	
1900-1	41	353,070	3	22,861	375,931
1905-6	158	904,496	2	16,784	921,280
1910	151	1,394,402	2	31,377	1,430,539
1915	111	2,053,735	2	32,838	2,093,365
1921	116	3,973,558	5	36,803	4,010,361

The new Labor Party constitution of 1918 first opened the membership to individuals who were not members of the affiliated societies.

In 1922 the total Labor representation in Parliament was 142. The following figures show which organizations were responsible for the candidatures of these Members:[3]

1. Webb: History of Trade Unionism, p. 688

2. Labour and Capital in Parl., p. 31

3. " " " " " p. 32

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1910	151	1,394,402	2	31,817	1,426,219
1915	111	2,082,736	2	30,329	2,093,065
1921	116	2,978,539	5	36,803	3,015,341

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In 1922 the total Labor representation in Parliament was 142.

The following figures show which organizations were responsible for the candidatures of these Members:[3]

1. Webb: History of Trade Unionism, p. 686

2. Labour and Capital in Part., p. 81

3. " " " " p. 82

Members returned under auspices of:	
Trade Unions	84
Divisional Labour Parties	20
The Independent Labour Party	32
Other Socialist Societies	2
The Co-operative Party	4
	142

Of the 142 Labour Members, seventy-eight were full-time trade union officials. Only thirteen were manual workers.

The majority of the Labor Members of to-day are drawn from the ranks of trade union officials.

C. Financial security

1. Taff Vale decision

The development of the Labor Party was in part due to the obstacles placed in the way of trade-unionism by the Taff Vale decision and the Osborne judgment. These two checks showed the trade-unionists the need of acquiring political power in order to protect their interests by securing favorable legislation.

The Taff Vale decision of 1901 followed a period of several years marked by a reaction on the part of the public against the peculiar status understood to be conceded to the trade unions by the Acts of 1871-76. Since 1876 trade unions had been free from legal proceedings against their corporate funds. In 1891 a Royal Commission on Labor had recommended that the unions be made legal corporations, able to sue and liable to be sued at law.

In 1900 a strike by the employees of the Taff Vale Railway Company in South Wales was marked by some unlawful acts. The General Manager of the company sued the Amalgamated Society of Railway Servants rather than the individual workmen responsible for the unlawful acts. The union claimed that it could not be sued as it was not a corporate body. The case was carried to the highest court, where it was decided that a union, while not a corporation, could be sued in its corporate capacity for damages caused by actions

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of its officers, and that injunctions could be issued against it.

The trade unions thus were given the liabilities of corporate bodies without having the advantages of corporations.

This decision halted the activities of trade unions to a great extent, as many acts might be construed as wrongful and the unions sued. Since it had been decided that injunctions could be issued restraining a union from "unlawfully, though without criminality, causing loss to other persons,"[1] it became futile to engage in strikes, since all strikes involve financial loss to the employers.

Many actions were brought against trade unions, and the union funds were held liable in a number of cases.

1. Webb: History of Trade Unionism, p. 600

2. The Trade Disputes Act (1906)

The rapid growth of the Labor Party both in membership and in political force was one of the manifestations of the feeling aroused by the Taff Vale case. The chief aim of the party was the passage of legislation reversing the Taff Vale judgment. Rejecting the Government Bill, it secured the passage of the Trade Disputes Act of 1906, granting the unions great immunity. This Act has been called the main charter of trade unionism.[1]

The clause upon which the trade unionists placed the greatest emphasis was the fourth section, which provided that no action should be brought against any trade union, whether of employers or workmen, or any union members, for the recovery of damages as the result of any tortious act committed by or on behalf of the trade union.[2]

The Act also provided that, when committed in contemplation or furtherance of a trade dispute, no act committed in concert should be actionable unless actionable if committed by an individual; that peaceful picketing should be lawful; and that no act should be actionable merely because it induced a person to break a contract or interfered with another's business or his right to dispose of his capital or his labor as he wished.[3]

The Trade Disputes Act, granting the trade unions such unusual immunity, called forth much hostile criticism, especially from employers of labor.

1. Webb: Hist. of Trade Unionism, p. 606
2. Trade Disputes Act, 1906, sec. 4, sub-sec. 1. Cited by Pipkin: The Idea of Social Justice, p. 319
3. Webb: Hist. of Trade Unionism, p. 606

3. The Osborne Judgment (1908)

The first important case concerning a political levy was brought in 1908, when a man named Osborne, a member of the Amalgamated Society of Railway Servants, sought to restrain the society by law from spending any of its funds for political purposes. The case was carried to the highest court, where it was decided that a levy for political purposes could not lawfully be made.

The argument was that a trade union, being regarded as a corporate body, could do nothing which was not authorized by the statute incorporating it. The definition enacted in the Trade Union Act of 1871 was to be regarded as enumerating the purposes which a trade union could lawfully pursue. Since the use of funds for political purposes was not mentioned as one of those purposes, it could not lawfully be done.[1]

Some of the money from the trade union funds had been used for the payment of members of Parliament. It is interesting to note that in 1911, while still refusing to reverse the Osborne decision by statute, Parliament voted that all members should receive a salary of £400 a year.

1. Webb: Hist. of Trade Unionism, p. 609

4. The Trade Unions Act (1913)

In 1913 an Act was passed providing that a trade union should have power to include any lawful purposes in its constitution and to apply its funds to any of these objects. Before undertaking the financing of certain political purposes, however, there should be a ballot and the purpose should be approved by the majority of votes. The money should be taken from a special political fund. Any member might claim exemption from contributing to this political fund.

This method of political levy, commonly known as "contracting out," remained in force until the passage of the Trade Disputes and Trade Unions Bill of 1927.

II Precipitating causes of the Trade Disputes and Trade Unions Bill

A Coal Strike

1. Condition of mining industry previous to granting of subsidy.

The precipitating cause of the Trade Disputes and Trade Unions Bill was the general strike of 1926, which in turn resulted from the coal disputes begun in preceding years. Nationalization of the coal mining industry, wages, and working hours were among the points at issue.

Before the war the miners' wages had been determined by a rather complex method. Each coal-field had a "standard" or basis rate of wages representing the actual level in that coal-field for some particular year in the past. The years 1877, 1879, and 1888 were used in various areas. The actual rates were determined on percentage advances on the standard rate.

The Coal Mines (Minimum Wage) Act of 1912, which applied only to underground workers, had provided for the fixing of a legal minimum wage rate in each district of the Federation by a Joint District Board with an impartial chairman.

During the period of Government control, from 1917 to 1921, all increases were made on a national basis. Wage increases on a flat-rate basis had been granted on several occasions.

A strike in 1920, settled October 28, resulted in a temporary scheme to vary wages according to the total output of the mines and the value of the output. Owners and miners were to meet and work out a permanent scheme, to be submitted to the Government by March 31, 1921. The owners, however, believed decontrol must be accompanied by wage reductions in many districts, and refused to put wage regulation upon a national basis. In March the owners published district schedules of wage rates which would prevail after April 1. The result was a three-month cessation of work in the mines.

The terms of settlement (National Wages Agreement) reached on July 1 provided for a distribution of the proceeds of the industry in agreed proportions between wages and profits. The scheme was as follows:

"1. In each district forming a unit for the ascertainment of wages, the collieries make returns of their working results over a given period, and the returns of the collieries in the district are aggregated.

"2. From the aggregate wages bill is deducted the amount of 'standard wages,' i. e., the existing basis rates plus the percentages which were payable on basis rates in July 1914.

"3. Seventeen per cent. of the amount of standard wages constitutes the standard profits of the owners.

"4. After deducting from the gross proceeds the standard wages, the standard profits, and the costs of production other than wages, the surplus is divisible in the proportion of 83 per cent. to wages and 17 per cent. to profits.

"5. The standard wages and the share of the surplus apportioned

to wages are added together. The sum thus obtained is expressed as a percentage on basis rates, and this percentage constitutes the rate of wages during the next period.

"6. In no case can wages fall below a point 20 per cent. above the standard wages.

"7. If the rate of wages does not provide a subsistence wage to low-paid daily wagement, the scheme provides for the making of such allowances per shift worked to the daily wages of these workers as may be necessary for this purpose.

"8. If in any period the proceeds, after deduction of costs other than wages and the cost of the standard wages, prove to have been insufficient to meet the standard profits, the deficiency is carried forward as a first charge to be met out of any surplus in subsequent periods."[1]

The trouble in 1925 arose from an attempt on the part of the owners in the Mining Association to reduce wages. The National Wages Agreement had failed to satisfy the miners in that it provided that wages should be fixed by district boards, instead of being upon a national basis. Consequently the Miners' Federation on Jan. 17, 1924 gave a three month notice of their intention to withdraw from the agreement. The British coal exports to Germany, as a result of the French occupation of the Ruhr, had risen from 8,345,606 tons in 1922 to 14,806,232 tons in 1923. The miners, therefore, felt justified in seeking an increased minimum wage, although they were warned

1. R. A. S. Redmayne: The British Coal-Mining Industry During the War, p. 254

that such unusual conditions in the industry would probably not be permanent.

The Labor Government, then coming into power, established a Court of Inquiry to investigate the points at issue. The Court recommended that the owners and miners should come to a new agreement. The terms finally agreed upon increased the minimum wages. This agreement was to remain in force from May 1, 1924 to May 1, 1925, after which date it might be terminated by either side upon a month's notice.

The freeing of the Ruhr district caused an immense decrease in the total British coal exports, which fell from 46,931,482 tons in 1923 to 27,432,703 tons in 1924. At the same time the cost of production was increased, as a result of the new wage scales. Consequently, the Mining Association, in the summer of 1925, announced that a lower rate of wages would go into effect and that only the men accepting the new rates would be permitted to continue work.

The miners naturally opposed the reduction. A new Court of Inquiry, appointed to investigate this dispute, presented on July 28 a Report stating that minimum wages should be guaranteed before profits were taken. This Report, however, failed to relieve the tense feeling that existed between the parties to the dispute.

2. Subsidy

a. Why granted

Other organized industries, particularly the railwaymen and the engineers, felt that the miners should be supported, lest their defeat might mean a widespread reduction of wages and increase in hours. The Trade Unions Congress was placed in charge of allying the unions and of calling strikes if necessary. The railwaymen and transport workers pledged themselves not to move any coal in the event of a lock-out.

The Government, deciding that a general strike must be averted at any cost, promised a subsidy to extend from August 1, 1925 to May 1, 1926, in order to maintain wages on the basis of the 1924 agreement. A Government Commission in the meantime was to conduct an inquiry with the aim of placing the industry in a better economic condition. Sir Herbert Samuel was appointed chairman of this commission.

The granting of the subsidy has been widely criticized on the grounds that it was economically unjustifiable and that, having been granted unconditionally, it served only to increase a desire for State help and to deaden the tendency of the industry to be self-supporting. Others base their criticism on the theory that the granting of the subsidy was a blow to democracy, since it represented the yielding of a democratically elected Parliament to a threat of force by the Trade Unions Congress. This same line of reasoning was followed by those who in 1926 characterized the general strike as a threat to democratic government.

Premier Baldwin, however, found himself in a difficult position when the Trade Unions Congress, representing over 4,000,000 members, was placed in charge of the miners' side of the dispute. There was a general feeling of unrest in the industrial world at that time. The Prime Minister may have believed that the Government was not then in a position to face the threatened general strike, and may have considered the subsidy strategically justifiable in that it gave more time to meet the emergency.

b. Effects of subsidy

The effects of the subsidy were not entirely satisfactory, although the main aim, that of gaining time, was accomplished. The Government was criticized for not making the restoration of the eight-hour day a condition of the grant.[1] The eight-hour day for under-ground workers established by the Coal Mines Regulation Act, 1908, had in 1919 been reduced to a seven-hour day upon the recommendation of a Coal Commission headed by Justice Sankey, following a demand by the miners for a six-hour day. Many of the operators claimed the shortened hours were one cause of the lack of prosperity in the mining industry, and, favoring the restoration of the eight-hour day, believed the change should have been made at that time.

The subsidy, moreover, artificially boosted the wages of the miners and, according to the Report of the Commission, gave the owners higher profits, in some districts, than those that were common before the war.[2]

1. Samuel Neil: Peace Prospects in the Coal Industry. Eng. Review Mar. 1926
2. Coal Report. Times Weekly Edition, Mar. 18, 1926.

3. Report of the Coal Commission

a. Main features

The Coal Commission, under Sir Herbert Samuel, received such definitely conflicting suggestions from owners and miners, that it was impossible for the Report to be satisfactory to both sides.

The Report, published about the middle of March 1926, rejected the proposal of the Miners' Federation for nationalization of the industry, suggesting instead State ownership of coal. The Commission proposed that the subsidy should not be extended beyond April 30, the date on which it was due to expire. A revision of the wage scale provided by the 1924 agreement was recommended as preferable to lengthening the working day. The opinion was given that "revision of the minimum percentage should depend upon acceptance by all parties of such measures of reorganization as will secure to the industry a new lease of prosperity leading to higher wages."[1] Moreover, before those engaged in the industry were asked to make any sacrifices, "it shall be definitely agreed between them that all practicable means for improving its organization and increasing its efficiency should be adopted as speedily as the circumstances allow."[1]

b. Effect of the Report

The Government, although not entirely satisfied with all parts of the Report, announced on March 24 that it would accept it and give it legislative effect provided that the owners and miners would abide by

1. Coal Report, Times Weekly Edition, Mar. 18, 1926

its provisions. The owners, likewise with some reluctance, agreed to accept the Report.[1]

The miners would not accept the Report without reservations, as they were still opposed to any wage reductions.

The shortness of the period before the expiration of the subsidy placed all parties involved in the negotiations under a great nervous tension. On several occasions a complete break between the operators and miners was threatened. The owners yielded in the first serious difference, which arose over the question of national or district wage scales.

On April 15, however, the owners gave notice that the existing wage agreement would be terminated on April 30. The miners declared this action was a threat of lock-out, and broke off negotiations. On April 27 Baldwin brought the miners and owners together in another conference, which ended three days later when the miners refused the terms offered by the operators, involving longer hours and a reduction of the minimum wage.

1. Ralston Hayden: Great Britain's Labor Strife, Current History, June 1926

B General Strike

1 Cause

On May 1 Premier Baldwin was notified that the conduct of the dispute for the miners' side had been turned over to the General Council of the Trade Unions Congress. The General Council, employing the tactics that had been successful in 1925, issued a memorandum calling a general strike of all transport workers in case no settlement was reached by midnight on May 3. A proclamation was then issued by the king, acting under the Emergency Powers Act of 1920, declaring a state of emergency. These acts made the struggle more dangerous, for the owners and the Government now had to deal with the Trade Unions Congress, representing the organized force of labor in Great Britain. The general strike was definitely threatened.

Premier Baldwin, however, continued his efforts toward a settlement until Sunday night, May 2. He then heard that the union printers on the Daily Mail had refused to print an article called "For King and Country," which declared that no civilized government would permit a general strike. Negotiations were terminated that evening, possibly as a result of the action of the printers, which may have been interpreted as an overt act on the part of the trade unions.

2. Aim

A manifesto issued by the General Council of the T. U. C. on Sunday evening, May 2, declared that the general strike was called purely as a means for settling a trade dispute, and not as an attempt to coerce the public. In the words of this statement: "A situation of the utmost gravity has been produced by the action of the mine-owners in locking out more than a million mine-workers, and by the failure of the Government to make any acceptable proposals to enable the industry to continue without any further degradation of the standards of life and labour in the coal-fields pending reorganization."[1] The General Council, accordingly, stated that it had been compelled "to organise united resistance to the attempt to enforce a settlement of the mining problem at the expense of the mine-workers' wages."[1]

Many who were not trade unionists imputed less noble aims to the General Council. Some regarded the strike as an attempt to wring from the Government an extension of the subsidy. Premier Baldwin called the strike an attack upon constitutional government.[2]

An editorial writer in the Outlook (London) characterized the general strike as an act of reprisal against the nation, entered upon as a result of the failure of the trade union leaders to receive what they desired from the Government.[3]

1. Manifesto of Gen. Council of T. U. C. - Appendix I, pp. 61-62, Three Speeches on the General Strike, Sir John Simon
2. Message from the Prime Minister, Sat. Rev., May 8, 1926
3. Men and Matters, Outlook (Lond.) May 8, 1926

3. Extent

Possibly 2,000,000 men participated in the ensuing general strike.[1] The trades and industries called on by the T. U. C. General Council to cease work included transport, printing, iron and steel, metal and heavy chemicals, building, and electricity and gas production.[2]

The unwise suppression of the newspapers left the Government broadcasting practically the only means of publicity. A great force of volunteers assisted in the necessary industries, running motor buses and electric trains, etc. There was no serious disorder, in spite of the presence on the streets of many striking workmen.

4. Duration

The general strike lasted from midnight on May 3 to May 12, when a conference of the General Council of the T. U. C. with Premier Baldwin was followed by the announcement of the termination of the strike in order that negotiations might be resumed.

5. Results

The results of the general strike are interesting when considered in connection with the question of the necessity of a bill for preventing similar strikes in the future.

1. C. F. G. Masterman: The Trades-Union War In England. Atlantic Monthly, Oct. 1927, p. 534

2. Appendix I, pp. 57-58, Three Speeches on the Gen. Strike, by Sir John Simon.

Masterman states that three significant results emerged. The first was that the cessation of railway communication was shown to be "a useless method of lightning strike," since "every road has become a railway." The second was that the "bourgecisie" were able to fight the laborer and defeat him at his own game because of superior resourcefulness, intelligence, and courage. The third result was that unskilled labor showed itself able to take over with very little training work that had been believed too difficult for any except skilled laborers.[1]

These results would seem to indicate that the general strike was an experiment not worth repeating.

6. Question of legality

a. The opinion of Sir John Simon

The question of the legality of the general strike, which was to be so thoroughly argued in the debate on the 1927 Bill, was considered even before the termination of the strike.

Sir John Simon, former Attorney-General, in a speech in the House of Commons on May 6, 1926, declared the general strike illegal as it involved breach of contract. He stated that the right to strike was perfectly lawful, but that "it will be very necessary to appreciate that this so-called general strike is not a strike at all. It is something very different."[2] He further declared that the

1. C. F. G. Masterman: The Trades-Union War in England. Atlantic Monthly, Oct. 1927, p. 534

2. Simon: Three Speeches on the Gen. Strike, p. 2

decision "to call out everybody, regardless of the contracts which those workmen had made, was not a lawful act at all. Every workman who was bound by a contract to give notice before he left work, and who, in view of that decision, has either chosen of his free will or has felt compelled to come out by leaving his employment without giving proper notice, has broken the law."[1]

In his speech in the House of Commons on May 11 Sir John Simon developed the proposition that the general strike "is not, properly understood, a trade dispute at all," but is "a movement of a perfectly different and of a wholly unconstitutional and unlawful character."[2] He continued, with some inconsistency in his choice of words, to say that the general strike "is not, properly understood, a strike at all because a strike is a strike against employers to compel employers to do something, but a General Strike is a strike against the general public to make the public, Parliament and the Government do something."[1]

b. The Astbury Judgment

In support of his views Simon quoted from a decision handed down on May 11 by Justice Astbury. The National Sailors' and Firemen's Union had applied for an injunction to restrain officials of the Tower Hill Branch of the union from calling union members out on strike in response to the instructions of the General Council of the T. U. C. In giving his decision Astbury said: "The so-called general strike called by the Trades Unions Congress is illegal and contrary to law, and those persons inciting or taking part in it are not protected by

1. Ibid. pp. 3-4

2. Simon: Three Speeches on the Gen. St., p. 15

the Trade Disputes Act of 1906. No trade dispute has been alleged or shown to exist in any of the Unions affected, except in the miners' case, and no trade dispute does or can exist between the Trades Union Congress on the one hand and the Government and the nation on the other."[1]

c. Opinion of Sir Henry Slesser

Sir Henry Slesser, who was Solicitor-General in the Labor Cabinet of 1924, took the opposite view on the question of the legality of the general strike. He cited the case of The Queen v. Cooper (reported in Four State Trials, p. 1250) as against Sir John Simon's claim of constitutional illegality. The Astbury decision, he claimed, was given in a case not argued for the defendant by counsel and in which no objection was taken that the legality of the strike was irrelevant to the issue. There was no basis, according to Sir Henry Slesser, for the theory that the mere generality of the cessation of labor introduces an illegal element.[2]

1. Simon: Three Speeches on the Gen. St. Appendix II, Mr. Justice Astbury's Judgment, p. 68
2. Slesser: The Legality of General Strikes. New Statesman, July 17, 1926.

C. Condition of Capital and Labor at the commencement of the Parliamentary session of 1927.

1. Failure of miners' strike

The general strike had distracted public interest from an impersonal consideration of the merits of the miners' case and probably had alienated public sympathy to some extent. The miners, however, continued their resistance until December, 1926, when lack of the necessary funds to continue the strike forced them to submit and to return to work with reduced wages.

2, Condition of trade unions.

Opinions differ as to the effect of the general strike on the trade unions. An editorial writer in the New Statesman declared that the strike taught two lessons. The first was that the "human strength" of trade unionism proved to be a surprise. Trade unionism redeemed its error of the "Black Friday" of 1921 and by its good showing brought about an increase in membership both of the trade unions and of the Labor Party. The workers enjoyed a new feeling of community as a result of their joint action. The second lesson of the strike was that a general strike can never be a "direct success" because of the superior power of the modern state. Such strikes, however, used for short periods, will prove useful in showing working-class opinion, especially when public opinion coincides. The general strike may be regarded as "one of the ultimate safeguards of democracy and even of the Constitution."[1]

1. Some Lessons of the Late General Strike, New Statesman, June 19, 1926

Masterman believes the results of the strike are not so favorable to trade unionism. He says that "the trade-unions who participated in it had cut their own throats by the general strike. Some, like the railway men, had lost more than a million pounds of their reserve capital. Others, like the miners, were in an actual state of fissure, with rival unions against rival unions, just as national fissure occurred in Germany after it had been destroyed by the Versailles Treaty."[1]

3. Attitude of the mine owners.

The mine owners, according to Masterman, were in no better situation. The increase of coal raised after the restoration of the eight-hour day proved a glut on the market. The owners were forced to sell at a loss, and in many cases were obliged to close the pits. These misfortunes, blamed upon the strikers, aroused a desire for vindictive measures.[1]

1. Masterman: The Trades-Union War in England. Atl. Monthly, Oct. 1927, p. 536

III Parliamentary history of Trade Disputes and Trade Unions Bill

A. Origin

1. Scarborough Conference

The Conference of the Conservative Party opened at Scarborough on October 7. Resolutions were passed which strongly favored trade union legislation. Premier Baldwin's speech indicated that he, while favoring such a bill, wished more investigation before determining upon the exact terms. He said in part: "We are fully alive to the importance of the question. As soon as we have completed our examination of the subject, we shall prepare a bill and proceed with it in Parliament. When we are in a position to present that Bill we shall rely with confidence on you for the loyal support which you have fully given us in the past."[1]

2. Changed attitude of Baldwin

Two years before, when the Macquisten Political Levy Bill had been introduced, Premier Baldwin had asked the Conservatives not to support it, as he was opposed to the Government's taking the first step in anything resembling an industrial war. The Prime Minister stated that the general strike was the cause of his change of attitude. Masterman, however, explains the Prime Minister's support of the Bill thus: "But the great trusts and combines, the employer class, and all who had been induced by fear to hate the working people, including the

1. News of the Week, Spectator, Oct. 16, 1926

Conservative official organizations, brought pressure on Mr. Baldwin, for once supported by the quaint adventurers in his Cabinet. He gave way, and signed the document which meant a declaration of war. Mr. Baldwin is a kindly man; he is a well-meaning man; but he is a weak man."[1]

3. Failure to consult Labor leaders.

The commission chosen to investigate the situation was made up entirely of members of the Conservative Party. No non-party conference was called, although some of the Labor leaders, dissatisfied with the existing trade union methods in regard to balloting, intimidation, the political levy, etc., might have contributed suggestions of some value. A bill worked out by such a conference might have escaped becoming a party issue. If the Labor leaders had been invited and had refused to participate in a conference they would have weakened their powers of resistance to the Government Bill.

4. The King's Speech

Premier Baldwin failed to see the need of propaganda for the Bill, and did little to prepare the country for a favorable reception of it before the opening of Parliament. Even in the King's Speech he had nothing definitely fostering the Bill. The most direct reference to it was extremely vague:"Recent events have made evident the importance of defining and amending the law with reference to industrial disputes.

1. Masterman: The Trades-Union War in England. Atlantic Monthly, Oct. 1927, p. 536

Proposals for this purpose will be laid before you."[1]

B. Brief summary of history of Bill in the House of Commons

1. Publication of text of Bill

The publication of the text of the Bill on April 4 caused so much political excitement that a bitter dispute was anticipated. Although the need for some revision of trade union regulations, especially in regard to intimidation, was widely conceded, many doubted the wisdom of introducing such a Bill at a time when the need of industrial peace seemed imperative.

The Bill was immediately criticized for the vagueness of the terms used in connection with illegal strikes and intimidation, as well as for the failure to make lock-outs illegal on the same conditions as strikes.

The Labor Party members feared the change in the method of political levy would greatly decrease the political funds of the trade unions and correspondingly limit their opportunities of parliamentary representation.

W. A. Appleton, Secretary of the General Federation of Trade Unions, said, in the Morning Post of April 6:[2] "The Bill represents an unwise ambition to pass legislation which can never be effective. It will involve trade unions in endless litigation. It will invite them to cease to function as trade unions, and to become more or less

1. King's Speech, cited in Official Report, Parl. Debates in H. C. Vol. 205, Col. 1798

2. Cited in News of the Week, Spectator, Apr. 9, 1927

secret political societies."

The Labor Party announced its intention of fighting the Bill and of repealing it in the event of another Labor Government. The General Council of the T. U. C. formed a body called the Trade Union Defence Committee to oppose the Bill.

2. Second reading.

a. Speech of the Attorney-General

When the House of Commons reassembled on April 26, interest was centered in the Trade Disputes and Trade Unions Bill, the only issue which was expected to arouse determined opposition. The Labor Party was handicapped by the absence of Ramsay MacDonald, whose place was not adequately filled by J. R. Clynes, the temporary party leader, or by Philip Snowden, J. H. Thomas, or other prominent Labor Members.

On May 2 the Bill was introduced for its second reading in a two-hour speech by the Attorney-General, Sir Douglas Hogg, who was frequently interrupted by remarks and cat-calls from the Labor benches. Many of the members of the Labor Party walked out, one of them, Mr. Jack Jones, leaving at the invitation of the Speaker after calling the Attorney-General "a liar from the top of his head to the sole of his foot."[1]

While it was evident that Sir Douglas Hogg failed to hold the interest of the members of the opposition, such tactics on the part of the Labor members did little to aid their fight against the Bill.

1. Official Report of Parl. Debates in H. C., Vol. 205, Col. 1327

The Attorney-General stated that the Bill supported four principles. "The first main proposition is this, that a general strike is illegal and no man shall be penalized for refusing to take part in it. The second proposition is this, that intimidation is illegal, and no man shall be compelled by threats to abstain from work against his will. The third proposition is this, that no man shall be compelled to subscribe to the funds of any political party unless he so desires. The fourth and last proposition is this, that any person entering the established Civil Service must give his undivided allegiance to the State."[1]

Sir Douglas Hogg then proceeded to discuss the clauses of the Bill. Clause 1, making the general strike illegal, he said was merely declaratory of the law, as it followed the Astbury Judgment given at the time of the strike. Sir Henry Slesser rose to dispute the point, but was not recognized by the Speaker. The definition of a strike Sir Douglas Hogg gave as the concerted action of a number of persons employed acting in concert to refuse work."[2] For a definition of a general strike he drew upon the words of Lord Oxford: "What distinguishes a general strike from others is this, that it is a blow, not struck by one combatant at the other, but directed, whether in intention or not, in effect by its inevitable results at the very vitals of the community."[2]

1. Official Report, Vol. 205, Col. 1306
2. " " " 205, " 1309

The Attorney-General then discussed the question of whether the probability of the recurrence of the general strike was great enough to necessitate a bill guarding against it. He first quoted several members to indicate that many of the Labor leaders were convinced of the folly and wickedness of the general strike." Ramsay MacDonald had said that "the General Strike is a weapon which cannot be wielded for industrial purposes. If fought to a finish as a strike, it would ruin trade-unionism."[1] After the strike, in May 1926, Mr. MacDonald had said: "We are not likely to hear much more of a general strike as an effective industrial weapon. Its blow is not against the employers, but against ordinary folk in the mass."[1] J. R. Clynes, in May, had written: "I have never believed in the policy of a General Strike. It would be unwise ever to repeat what has been done. . . . . The whole idea of trying to settle anything by such a method was a delusion."[1]

Thomas and Snowden were referred to as sharing this viewpoint.

To indicate, however, that this opinion was not shared by the entire Labor Party, the Attorney-General quoted from Hicks, the Chairman of the Executive Council of the Trade Unions Congress, who said: "It would appear that general strikes of a more intense and formidable character than the one recently experienced, are inevitable."[2]

1. Official Report, Vol. 205, Col. 1312

2. " " " 205, " 1313

Purcell, Member of Parliament for the Forest of Dean, said: "The class struggle itself, the inexorable urge of economic forces, is going to create the conditions for other and more formidable general strikes. Next time, however, the procedure will be different; the conduct of the strike will be improved upon."[1]

The fact that such views were still held was considered by the Attorney-General a justification for the introduction of Clause 1 of the Bill.

In order that such a strike should be illegal under the Bill, it must be a strike not purely industrial, and must be "intended or calculated to coerce the Government or to intimidate the community or a substantial part thereof instead of being directed against the individual employer."[2]

The omission of any mention of lock-outs Sir Douglas Hogg justified on the grounds that there never had been a general lock-out, and that in case of the occurrence of such a lock-out in the future the Government already had power, under the Emergency Powers Act of 1920, to take over the works from the employers and run them.

The question might arise of how a workman could know, when asked to join a strike, whether that strike was legal or illegal. This difficulty, Sir Douglas Hogg said, was obviated by Clause 7, which empowered the Attorney-General to take a threatened general strike to

1. Official Report, Vol. 205, Col. 1313
2. " " " 205, Col. 1315

the courts. The Court, if it decided that such a general strike was threatened, could prevent the use of trade union funds to support it. The court decision, following the action of the Attorney-General, would determine the legality of the strike.[1]

Clause 2, referred to by the opposition as the clause that would legalize "blacklegs," provided that no one should be penalized by his trade union for refusing to participate in an illegal strike. A sub-section provided that any person so penalized might apply to the courts for reinstatement and compensation. This clause was made retroactive to apply to the general strike of 1926.[2]

The third clause dealt with intimidation. Sub-section (1) was intended to be merely declaratory of the existing law, permitting peaceful persuasion and peaceful communication of information.

Sub-sections (2) and (3) were intended to alter the existing law by enlarging the definition of intimidation to include more than merely threats of personal violence. Threats of other kinds should also be considered forms of intimidation, such as warning a workman "that if he dares to continue work his family, his wife, will be ostracized, his children's lives will be made intolerable for them, and he himself will be driven out of work and hounded out of the street or into the workhouse."[3]

Sub-section (4) prohibited watching and besetting a workman's house.

1. Official Report, Vol. 205, Col. 1318
2. " " " 205, Col. 1320
3. " " " 205, Col. 1323

The explanation of Clause 4, dealing with the political levy, was given with some difficulty due to incessant interruptions from the Labor benches.

The existing law, that of 1913, permitted trade unions to maintain political funds provided that a favorable majority vote was obtained in a secret ballot of the union members. Any member who was unwilling to contribute to the political levy might be exempt by giving notice that he did not desire to subscribe.

It had been alleged that under that system union members found themselves "practically compelled to subscribe"[1] to the political fund.

The Trade Disputes and Trade Unions Bill aimed to correct that fault by substituting a method by which only those should subscribe who definitely agreed to do so and filled out in writing a required form. Clause 4 also provided that the political fund should be collected as a separate levy. Unregistered trade unions would be required to make the same returns as the registered unions.

The substance of Clause 5 was stated as follows: "In the case of the established Civil Service any trade union, by which I mean for the moment an organization whose primary object is to influence or affect the renumeration and conditions of employment of its members, must be confined to members of the Civil Service, and must not be affiliated to any outside organization or political party."[2]

1. Official Report, Vol. 205, Col. 1325
2. " " " 205, " 1330

This clause was included because at the time of the general strike seven Civil Service organizations were affiliated with the Trade Unions Congress. One of these organizations had sent a circular stating that the three largest of the Civil Service organizations had declared themselves willing to place their powers in the hands of the General Council of the T. U. C. in regard to (1) calling a strike of their members, and (2) financial aid.[1]

Clause 6 prohibited any public authority from requiring that employees should be trade union members.[2] It also provided that employees of local authorities performing duties vital to the community should not be allowed to break their contracts of service.[3]

Clause 8, excluded Northern Ireland from the scope of the Bill.

Sir Douglas Hogg concluded his speech by appealing for support to the Labor members who did not approve the general strike, calling on them to show the moral courage required to turn from the "uncompromising hostility," which they had resolved upon even before hearing the Bill. He scored the Liberals for their failure to support the Bill, the general principles of which they approved, merely on the grounds that the time was not expedient for introducing such a Bill.

1. Official Report, Vol. 205, Col. 1331
2. " " " 205, " 1333
3. " " " 205, " 1334

b. Principal speeches in debate on second reading

1. J. R. Clynes

J. R. Clynes, the temporary leader of the Opposition as Deputy Chairman of the Labor Party, in answering the speech of the representative of the Government, called the Bill "a calculated and deliberate piece of class hostility."[1] The omission of reference to the lock-out, he said, supported this view. The general strike could not be accepted as the cause of this proposed legislation, as the Bill included other matters than questions arising from the strike.

Mr. Clynes' speech suggested the main lines which the criticism would take. The vague definitions of such terms as "trade" and "industry" were criticized. Intimidation on the part of employers as well as workmen should be prevented. Too much power was given the Attorney-General in deciding on the legality of strikes. A "blackleg" should accept the majority decision as men in the professions were obliged to do. The Civil Service employees, about half of whom received less than £3 a week, should not be regarded as a specially privileged class and consequently should not be denied privileges given other citizens. The political levy form in use was sufficiently generous, as it gave the minority privileges not commonly granted under the law of majority rule. Dissenting members were not obliged to contribute. Contracting-in would give no new rights, but would only

1. Official Report, Vol. 205, Col. 1338

hinder the trade unions in collective action for gathering the political levy.

According to Clynes the Bill, springing from "Class hostility and political vindictiveness,"[1] would ruin all chances for industrial peace.

(2) Harney

The first speaker for the Liberal Party, E. A. S. Harney, the member for South Shields, declared that the Bill was "believed to be nothing less than the ungenerous, ignoble, and unworthy crow of exultation on the part of the Government over a body of men whom they believe they have defeated."[2] He opposed the omission of lock-outs. He stressed the improbability of another general strike, and stated that the Bill was in reality directed against all strikes. Too much power was given the Attorney-General by Clause 7. The definition of intimidation was ridiculous. The chief objection to contracting in was that the failure of members to sign the required forms, from sheer inertia, would cause a decrease in the political funds.

(3) Slesser

Sir Henry Slesser, the Labor Party's chief authority on legal questions and Solicitor-General in 1924, joined in the attack upon the wording of the Bill, and brought forth the view that the Bill would place the workman in the position of a serf, as it would make it

1. Official Report, Vol. 205, Col. 1351

2. " " " 205, " 1353

impossible for him to leave his work, in case of an illegal strike, even after giving notice.[1] As a result of the "wonderfully vague" wording, which was capable of great misinterpretation, Slesser declared the Bill dealt "a deadly blow at the whole process of striking,"[2] and "so increased the risk and peril of picketing that it has made picketing altogether impossible."[3] The much criticized power given the Attorney-General, he said, was derived from ideas coming from the United States and not from Moscow, but would be as deadly to the trade dispute as anything that ever came from Russia.

(4) F. H. Rose

The debate on Tuesday centered mainly on Clause 1, with considerable discussion as to the amount of misinterpretation which might arise from the vagueness of the wording and which might prevent all strikes.

A rather facetious speech by F. H. Rose, a Labor member, illustrates the doubt held by many of the recurrence of a general strike. He said, in part: "I cannot imagine anybody taking the general strike as a basis for legislation. It was a senile decrepit when they wheeled it out of Eccleston Square in a bath-chair. It was dead in twenty-four hours, and it was nothing but a corpse when they paraded it for the rest of the week, and, to all intents and purposes, it has since been not only dead but damned. When I see a Government passing solemn legislation upon an episode like this in our industrial

1. Official Report, vol. 205, Col. 1374
2. " " " 205, " 1381
3. " " " 205, " 1384

life, I marvel, and when I hear Members of my own party talking about that miserable fiasco as a dress rehearsal, as a precursor to something better and more conclusive which may happen some other time, I have no words. . . . The mass of the working men of this country will not have another one."[1]

(5) Sir John Simon

In the debate on Wednesday, the most important speakers were Sir John Simon, who had defended the proposition that the general strike was illegal, and Premier Baldwin.

Sir John Simon, the chief authority on legal questions of the Liberal Party, agreed with the four main purposes of the Bill as presented by the Attorney-General. He criticized the Labor Party for the uncompromising attitude which restrained them from improving the Bill by presenting constructive amendments. The principal criticisms offered by Sir John Simon were concerned with the vagueness of the language of the Bill and with the failure to deal with lock-outs, which should have been included for the psychological effect if for no other reason.

(6) The Prime Minister

The Prime Minister's speech was somewhat delayed by interruptions and by the necessity of suspending a member for calling Mr. Baldwin a liar. After this episode, Baldwin continued in an attempt to justify his change of policy in regard to introducing the Bill.

In the autumn of 1924, the Prime Minister stated, he had no

1. Official Report, Vol. 205, col. 1529-30

intention of introducing any bill affecting trade unionism. In 1925 he opposed the Macquisten Political Levy Bill, although it had the support of a majority in the Conservative Party, because "at a difficult time of industrial relations" he did not wish "to be responsible for firing the first shot."[1] The subsidy had been granted in 1925 with this same purpose of preserving industrial peace. During and immediately after the general strike Mr. Baldwin had been urged to pass a bill dealing with trade unions, but refused because at that particular time it would probably have taken too vindictive a form. The general strike, however, was the justification for the 1927 Bill.

(7) Philip Snowden

The speech of Philip Snowden, Chancellor of the Exchequer in 1924, and a prominent Socialist, was a further attack on the ambiguities of the Bill. In regard to the general strike he said: "Although the general strike, in my opinion, is always ineffective as an industrial weapon, yet it is not wrong. The argument against the general strike is not that it is wrong, the argument is, in my opinion, that it is a foolish and ineffective weapon to use."[2] The mere passing of legislation would never stop a general strike if the workmen were resolved to have one. The clause on intimidation he treated with considerable scorn.

1. Official Report, Vol. 205, Col. 1666
2. " " " 205, " 1794

(8) Lloyd George

Lloyd George, former Prime Minister and leader of the Liberal Party, attacked the Bill on the basis of inexpediency. "Every argument drawn from the failure of the general strike is an argument for proceeding with the work of conciliation."[1] He also declared no legislative act could prevent or stop a general strike upon which the workers were determined.

c. Vote on second reading.

The vote on the second reading was one of the largest which had been cast for several years, with 591 members participating. Some members, of whom Sir John Simon was one, were present but did not vote.

The Conservative vote was cast solidly for the Bill, the Labor vote solidly against it. The Liberals were divided, with nineteen against the Bill and seven for it. The Government majority was 215.

1.Official Report, Vol. 205, Col. 1813

3. Committee stage

a. Adoption of closure ruling

The Bill was first considered in Committee on May 11. The vast amount of work to be done soon appeared. It was announced that forty-six pages of amendments had already been prepared, and the interest in remodelling Clause 1 alone threatened to replace the cross-word puzzle fad.

A great deal of time was devoted to the Bill in the first days of the Committee stage. On May 11 a debate of more than four hours followed the moving of the first amendment, and a debate begun after eleven P. M. continued until half-past twelve. Another discussion, begun before four on the afternoon of May 12 lasted until four o'clock the next morning. The Prime Minister, consequently, presented a time schedule on May 16, limiting the Committee stage to twelve allotted days, each with a definite time for closure, and allotting three days to the Report stage, and one to the Third Reading. At the close of the given time on each day of the Committee stage the question before the Committee should be put to a vote, and any amendments, new clauses, or schedules proposed by the Government and of which notice had been given should also be voted upon. This time schedule was adopted by a vote of 259 to 13.[1]

1. Official Report, Vol. 206, Col. 952

b. Nature of amendments proposed by Labor and Liberal members.

The Labor members handed in over 200 amendments, practically all of which were destructive in character, following the campaign mapped out by the Labor Party from the time of the introduction of the Bill.

When Clause 1 was considered by the Committee, Sir Henry Slesser moved that the words "For the purpose of removing doubts" be inserted at the beginning, on the ground that doubt existed as to whether the clause was merely declaratory of the existing law. A long debate ensued on the question of the legality of the general strike. The amendment was not accepted.

An amendment proposed by Clynes, to limit the definition of illegal strikes to strikes in breach of contract, likewise proved unsuccessful.

The principal Liberal amendment proposed to substitute Sir John Simon's definition of illegal strike: "Notwithstanding anything in the Trade Unions Acts, any combination, whether of employers or of persons employed, the object of which is to coerce the Government or Parliament, as distinguished from furthering a trade dispute, by means of concerted and simultaneous refusal to continue employment or work is an unlawful conspiracy."[1] This amendment was defeated by a vote of 271 to 154.

The Labor and Liberal amendments to Clause 2 opposed the retrospective character of the clause.

1. Official Report, Vol. 206, Col. 663

Clause 3 was attacked in a variety of ways. Labor members proposed the omission of the entire clause, or attempted to amend it in such a way as to limit its application, or to penalize employers for blacklisting, or employers or associations of employers attempting to intimidate another employer. The Liberal amendments proposed to limit the application of the word "injury" to physical injury.

The amendments offered by Labor members to Clause 4 dealt with the time of coming into operation of the new system of political levy, the persons and unions to whom or to which it would apply, the method of giving notice, and the time allowed for alteration of the union rules. The Liberal amendments sought to make it clear that the declaration of willingness to subscribe need not be made each year.

In Clause 5 also the Labor amendments were concerned with the time of coming into operation, and the persons to whom the clause should apply. The Liberals aimed to exclude manual workers in industrial employment under the Crown.

Clause 6 the Labor members would limit to the prohibition of any condition that the employee must not be a trade union member.

Liberal and Labor members alike objected entirely to Clause 7.

None of the amendments proposed by Labor or Liberal members were accepted, with the exception of minor changes in Clause 4.

c. Government amendments adopted.

A general debate upon the entire clause was permitted in almost every case upon the moving of the first amendment to that clause. This debate occupied so much time that many of the Government amend-

ments were proposed at the close of the allotted time under the closure rule and accordingly were put to a vote without discussion.

The most important Government amendments were those altering Clauses 1 and 3. The Attorney-General wisely rectified the much-criticized omission of the illegal lock-out. The wording of the definition of the illegal strike was changed to remove the expression "to intimidate the community or any substantial portion of the community." The use of the word "intimidate" in this connection had been criticized as vague.

The definition of illegal strike in the first draft had read: "It is hereby declared that any strike having any object besides the furtherance of a trade dispute within the trade or industry in which the strikers are engaged is an illegal strike if it is a strike designed or calculated to coerce the Government, or to intimidate the community or any substantial portion of the community, and that it is illegal to commence, or continue, or to apply any sums in furtherance or support of such a strike."[1]

As amended, this portion read: "It is hereby declared that any strike is illegal if it has any object other than or in addition to the furtherance of a trade dispute within the trade or industry in which the strikers are engaged; and is a strike designed or calculated to coerce the Government either directly or by inflicting hardship upon the community; and that any lock-out is illegal if it has any object other than or in addition to the furtherance of a

1. London Times, April 5, 1927

trade dispute within the trade or industry in which the employers locking-out are engaged; and is a lock-out designed or calculated to coerce the Government either directly or by inflicting hard-ship upon the community."

The term "trade or industry" was defined in the amended form of Clause 1.

The definition of intimidation (Clause 3, sub-section (2)), which had so aroused the mirth or the ire of the opponents of the Bill, was modified by a Government amendment. The first form had read, "In this section the expression "to intimidate" means to cause in the mind of a person a reasonable apprehension of injury to him or to any member of his family or of violence or damage to any person or property, and the expression "injury" includes injury other than physical or material injury, and accordingly the expression "Apprehensio of injury" includes an apprehension of boycott, or loss of any kind, or of exposure to hatred, ridicule, or contempt."[1]

The Government moved the omission of the words following "physical or material injury."

In the Report stage the Government amended Clause 5 by the addition of proviso (2), allowing any person employed by the Crown who later becomes an established civil servant to remain a trade union member. Subsection (2) Clause 6, was added, and definitions of "lock-out" and "calculated to coerce" were inserted in Clause 8. The provisions regarding civil servants were extended to apply to Northern Ireland.

1. London Times, April 5, 1927

4. Third reading

The Bill was brought up for the Third Reading on June 23. It was evident that the Labor members had resolved not to go down to defeat in silence. They questioned the necessity of the Bill, criticized the way in which it had been handled in Parliament, and predicted that its results would have an unfavorable reaction upon the industrial situation. Their principal spokesman was Snowden, who held the attention of the members for an hour by his verbal attack upon the Bill and its sponsers. He declared that the Bill would "remain a dead letter because the spirit of public opinion can never be breathed into it."[1] The Bill, he said, "has no democratic sanction. It has no moral sanction. Not only the introduction of the Bill but the way in which it has been forced through the House of Commons is an outrage upon Parliamentary procedure. The Government professes to be aiming at maintaining constitutional government. No greater blow has been struck in this generation at constitutional government than the introduction of this Bill."[1] It was, in short, a "vicious, malignant, provocative Bill."[1]

One member of the Labor Party resorted to the less dignified tactics employed at the time of the Second Reading, and was suspended for referring to the Attorney-General as a liar.

1. Official Report, Vol. 207, Col. 2159

Sir John Simon believed that even in its final form the Bill would be difficult to interpret, but nevertheless considered it so much improved that at last he stated his intention of voting for it. The lack of public feeling against the Bill, he argued, indicated that the people felt a desire to have the law clarified by the Bill. He referred to Snowden's speech on the interest of a third party, the community, in industrial disputes.[1] He concluded by saying that he did not believe the Bill subversive to the cause of peace.

The Solicitor-General was in a very enviable frame of mind in regard to the Bill. He said in part: "On the whole, the Bill appears to be a better Bill even than when it was introduced.[2] . . . The more one studies this Bill, the more one comes to the view that it will provide for the liberties of the people. In commending this Bill to the House, I can say with sincerity that when one realizes its object it is no wonder that it is being more and more accepted with a quiet and sincere welcome by the people for whom we are trustees."[3]

The Solicitor-General's trust was justified so far as the House of Commons was concerned, for a crowded, cheering, and cheerful House sped the Bill on its way by 354 votes to 139."[4]

1. Official Report, Vol. 207, Col. 2110
2. " " " 207, " 2079
3. " " " 207, " 2089
4. London Times, June 24, 1927

C. Principal points at issue

1. Declaratory nature of Clause 1, Sub-section (1)

Clause 1 of the Bill, dealing with illegal strikes, caused the greatest amount of discussion and created a wide diversity of opinion. The first point raised was whether or not Sub-section (1), defining the illegal strike, was merely declaratory of the existing law.

The Attorney-General, in presenting the Bill for the Second Reading, declared that this sub-section was purely declaratory,[1] basing this statement upon the judgment given by Justice Astbury in the case of the National Sailors' and Firemen's Union of Great Britain and Ireland v. G. Reed and Others. In this decision, given May 11, 1926, Justice Astbury had said: "This so-called general strike called by the Trade Unions Congress is illegal and contrary to law."[2]

Harney (Lib.) declared that the sub-section defining the illegal strike was contrary to both statutory and common law. He said: "It is not a declaration of the law. . . The existing law, under the Act of 1906, provides that men can strike in the primary or all the secondary industries and even break their contracts by doing so, and still the funds of the union are immune and the persons of the strikers are safe. . . . Wipe out the 1906 law, and what do you find? You have common law for centuries - with a slight break

1. Official Report, Vol. 205, Col. 1307

2. Simon: Three Speeches on the General Strike, p. 68

between 1799 and some years afterwards when a panicky Act of Parliament was passed - you have the common law for centuries saying, 'Let any man do a thing that is lawful and it cannot be made unlawful because 10,000, 20,000, or 1,000,000 other men do the same thing.' That is the common law of England, and it is common justice."[1] Harney also stated that the Bill would undo the Act of 1875.[2]

Sir John Simon, having already declared the general strike illegal, naturally agreed in the declaratory nature of this section. On this point he was at variance with the other members of his party.

Sir Henry Slesser, the principal spokesman of the Labor Party on questions of legality, believed this Bill overturned the existing law. "For hundreds of years," he said, "the law of this country has been that employers and employed were alike able, by giving notice under their contracts, to terminate their engagements the one with the other . . . . Under this Bill . . . . it will no longer be within the power of a workman, except at the expense of becoming a criminal, to terminate his contract. "[3]

The most important debate on this subject followed Slesser's proposal, on May 11, to insert the words: "For the purpose of removing doubts." Slesser's speech emphatically denied the illegality of the general strike. He said: "The Measure, so far from being declaratory of any existing law, is overturning and altering the

1. Official Report, Vol. 205, Col. 1358-59
2. " " " 205, " 1365
3. " " " 205, " 1374

existing law with regard to the rights of strikers and trade unionists which have existed for the last 100 years. . . The existing law declares that men have a right to terminate their contracts. . . . . You are withdrawing from all the working people of this country the right to terminate their contracts in concert."[1]

Slesser cited the Erskine judgment of 1843 that a strike for increased wages was not illegal, nor any agreement among men to support each other in order to obtain any lawful aim.[2] That the aim of the 1926 strike was lawful was indicated by the Prime Minister's statement in the House that it was not seditious in intention.[3]

Sir John Simon's view that the question of illegality did not turn on breach of contract, Slesser declared, was not supported by any other lawyer.[3]

The Astbury decision could not be cited for three reasons:

(1) It was given in a case for an interim injunction, not as a final determination of a legal point.

(2) The defendant was not represented by counsel and no precedents were cited.

(3) The case turned on the small point whether this particular contention did or did not come under the Trade Disputes Act.[4]

1. Official Report, Vol. 206, Col. 407-8
2. " " " 206, " 409
3. " " " 206, " 410
4. " " " 206, " 411

The Attorney-General, in reply to Slesser, said that the Erskine Judgment had not been quoted exactly. He quoted the decision of the Queen's Bench on the same case brought on appeal, which says: "It is clearly illegal for persons to compel others throughout the whole country to abstain from work until the charter becomes the law of the land."[1]

The Astbury Judgment, according to Hogg, would stand unless reversed in the Court of Appeal or the House of Lords,[2] as an interlocutory judgment is given with great care and may be regarded as a statement of the law.[3]

Sir John Simon restated his opinion that the question of the legality of the general strike turned on the fact that it was not solely concerned with a trade dispute.[4]

2. Type of strike made illegal by Clause 1

Another problem arising from the discussion of Clause 1 was concerned with the interpretation which might be placed upon it. Some argued that it might be interpreted to cover sympathetic strikes or even to make all strikes illegal.

Sidney Webb brought forward the unique view that the original form would not apply to the general strike. The general strike he defined as "a strike which is not a trade dispute and not in furtherance of a trade dispute."[5]

1. Official Report, Vol. 206, Col. 421
2. " " " 206 " 423
3. " " " 206, " 419
4. " " " 206, " 445
5. " " " 206, " 459

The wording of the Clause, "having any object besides the furtherance of a trade dispute," would imply the existence of a trade dispute. The Government amendment, however, substituting for "besides" the words "other than or in addition to", removed this ambiguity.

Other Labor members feared that Clause 1 would seriously interfere with the right to carry on any strike. Many of them spoke at some length and with considerable feeling upon the subject.

Clynes said: "Our main objection to the first clause of this Bill is that it will erect a great, if not an insuperable, barrier of uncertainty and doubt in the minds of trade union leaders and executives as to when it will be legal for them to take any action."[1]

Walsh, a trade union member, said: "No possible strike can take place that would not be brought within the scope of this Bill."[2]

A. Henderson developed the point that the present condition of industry, bound into amalgamations, combines, federations, etc., would be undermined by a law limiting a strike to a single trade or industry. Such amalgamations and combinations have been encouraged by Government legislation, but their position under this Bill would be precarious. The sympathetic strike was threatened by the first clause.[3]

Another phase was discussed by Thomas. Some industrial changes, he said, can be secured only by passing laws. Workmen, not realizing this, may strike for these changes, thus placing themselves in the position of coercing the Government. The magistrates, moreover, might

1. Official Report, Vol. 205, Col. 1343
2. " " " 205, " 1581
3. " " " 205, " 1477-80

interpret any sympathetic strike as injuring a substantial portion of the community.[1]

Slesser again was the most forceful speaker on the Labor side. He made some rather sweeping statements in his speeches. "It is quite clear what is in the mind of the Government. The Government wish to prevent by law sympathetic strikes on a large scale or on a small scale. They say it does not matter whether the strike has anything to do with an intention to injure the State if they can say it is inevitable that it will injure the community. . . . We now know that whatever the intention of the strikers may be is immaterial. If what they do in the course of their ordinary industrial right is, in fact, liable to inflict hardship on the community, it constitutes an illegal strike within the meaning of this Bill. It is true, as we have always declared, that what is hit at here is the ordinary, normal, sympathetic strike."[2]

There is danger, according to Slesser, that the leaders of the striking men might do something which would make the strike illegal. The strikers then would be engaged in an illegal strike, possibly without their knowledge. The workmen would probably not understand how Clause 7 operates to enable them to determine whether a strike is legal or illegal.[3]

"In the future under this Bill it will be unsafe for men to take part in any sympathetic strike whatever except at the risk of receiving

1. Official Report, Vol. 205, Col. 1873-74
2. " " " 205, " 609-10
3. " " " 205, " 1377-78

two years' imprisonment. . . . . As a matter of fact this Bill deals a deadly blow at the whole process of striking."[1]

Sir John Simon said that the sympathetic strike would not be affected unless it satisfied the second condition of the definition, by coercing the Government or the community. He seemed to think that there was little danger that many sympathetic strikes would be held illegal.[2]

Other members of the Liberal Party were less optimistic. Harney, for example, said: "It hits the justifiable and industrial strike."[3] He showed how the coal strike might have been brought under the definition of illegal strike. One of its objects was the continuance of the subsidy, which would not be considered a trade dispute. The strike might also be considered an attempt to coerce the Government. Practically any strike, Harney said, could be interpreted as illegal under this definition. "This Bill is not a Bill directed against general strikes, or even against extended sympathetic strikes. It is a Bill directed against all strikes."[4]

Lloyd George expressed a very similar opinion, and also gave examples to show how various types of strike might be interpreted as illegal.

Sidney Webb noted with some amusement that members of the Conservative Party were not entirely in accord on the interpretation of the Clause.

1. Official Report, Vol. 205, Col. 1380-81
2. " " " 205, " 1647-48
3. " " " 205, " 1354
4. " " " 205, " 1315

The Attorney-General insisted that the right to strike had been preserved with care. "The sympathetic strike remains under this Bill perfectly legal, so long as it is a strike directed against the employer and not directed against the Government or the community."[1]

Sir Gerald Hohler, on the contrary, said, "There is no right to what is called a sympathetic strike unless it is a sympathetic strike within the trade or industry involved."[2]

The only fact of which there seemed to be no doubt was that Clause 1 was difficult to interpret.

3. Extent to which Clause 3 would interfere with the conduct of strikes.

Another clause upon which there was a great difference of opinion was Clause 3, dealing with intimidation. The principal objection to this clause was that by enlarging so vastly the application of the word "intimidation" the conduct of any strike would be very seriously hampered. This clause applies to all strikes, legal or illegal.

The first sub-section, according to the Attorney-General, was merely declaratory of the existing law as expressed in Section 2 of the Trade Disputes Act of 1906.

1. Official Report, Vol. 205, Col. 1315

2. " " " 206, " 640

This law, permitting peaceful picketing, had been "honestly misunderstood" and had been cited to cover many acts of intimidation done by pickets. Hence a reaffirmation of the law in more definite form was considered advisable. Sub-sections (2) and (3), however, were new, as intimidation, formerly understood as a threat of personal violence, was now extended to cover the acts calculated to cause apprehension of injury other than physical or material injury.

Clynes in reply to the Attorney-General stated that intimidation on the part of the employers was a much more serious wrong than anything the workmen were apt to do and for more deserving of restrictive legislation.

The general attitude, however, of the opponents was ridicule of the idea that intimidation of the sort the Government was aiming at could possibly be suppressed. Harney said: "The Attorney-General thinks that though the policeman cannot prevent booing, he can prevent this new intimidation, grimacing. Though he cannot catch those who jeer and use bad language, he will catch those who give a Marie Lloyd twist to the eye or a Charlie Chaplin tilt to the hat. Intimidation is extended from its dictionary meaning into the regions of metaphysics."[1]

J. Bromley, a trade unionist, said that if the Government wording should pass, "we shall all be in gaol!"[2]

1. Official Report, Vol. 205, Col. 1360
2. " " " 205, " 1700

Snowden joined in the general attitude of contempt for this section of the Bill, saying that "nothing more ridiculous has ever been proposed in Parliament." The Bill, he said, introduced "a new offence - the apprehension of being held up to ridicule. If it is to be made an offence even to hold up a person to ridicule, then the whole spice and enjoyment of life have been taken away."[1]

Wheatley, striking a more serious note, declared intimidation justifiable as the means of enforcing workmen to abide by a majority rule in time of strike.[2]

Slesser believed the probable consequence of this clause would be absolute impossibility of picketing, since any picketing might cause apprehension of injury. Even the most peaceful picketing might cause a man to fear that if he did not join the strike the cause might be defeated and his wages reduced as a result.[3] Even the communication of information would become a criminal offense if it might be shown to cause apprehension of injury. The Bill would do away with rights gained by the trade unions in the Acts of 1875 and of 1906.[4]

Sir John Simon, however, again came to the support of the Government, saying that in the main Clause 3 merely declared the existing law, which had been misunderstood and which needed to be

1. Official Report, Vol. 205, Col. 1797
2. " " " 205, " 1838
3. " " " 205, " 1384-5
4. " " " 206, " 1675

clearly restated.[1]

In the Committee stage, which was marked by attempts to remove the entire clause from the Bill, some amusing examples were given by Labor members of the lengths to which interpretation of this clause might presumably be carried. J. H. Thomas, for example, imagined a case in which the wife of a striker might commit an illegal act by refusing to invite to tea the wife of a "blackleg."[2] T. Williams said that even under the existing laws some men had been sent to prison for sitting and besetting when they had been merely sitting on their doorsteps and playing mouth-organs to amuse themselves.[3] What would be the fate of these men if Clause 3 should be passed?

The Government, perhaps moved by "exposure to ridicule," at length offered an amendment removing the words: "and accordingly the expression apprehension of injury[4] includes an apprehension of boycott, or loss of any kind, or of exposure to hatred, ridicule, or contempt,"[4] but left the words which Slesser declared the root of the matter: "to cause in the mind of a person a reasonable apprehension of injury to him or any member of his family."[5]

1. Official Report, Vol. 205, Col. 1643-44
2. " " " 206, " 1788
3. " " " 206, " 1730
4. " " " 206, " 1679
5. " " " 206, " 1672

4. Effect of Clause 4 (Political Levy)

Clause 4, dealing with the political levy, purported to be a measure designed to protect unwilling trade unionists from being forced to contribute to the political fund. The opposition, however, regarded it as a deliberate attempt to weaken the political power of trade unions by decreasing their political funds.

The Attorney-General in presenting the clause stated that under the existing law many had found themselves practically compelled to subscribe to the levy.[1] Another member of the Government, the Secretary of State for War, quoted figures to indicate that under the 1913 Act not all of those dissenting to the political levy were exempt. Of the 578,000 voting against setting up a political levy, only 110,000 had asked for exemption. This would indicate, he declared, that nearly 500,000 who were unwilling were practically compelled to pay.[2] (This is the statement which grieved a member of the Labor Party so bitterly that he was led to announce that certain members of the Government could outdo Ananias.)

Clynes vigorously denied that the existing method withheld any rights from the union members, stating that on the contrary it went so far in protecting the rights of the individual that it actually violated the principle of majority rule, as the minority voting against the political levy were privileged to ask exemptiom from paying. "We make ample provision for the man who wishes to dissent..... Contracting-in will give no right whatever.

1. Official Report, Vol. 205, Col. 1325

2. " " " 205, Col. 1675

That right has always existed. It is a process for destroying anything answering to collective action for gathering working-class contributions for political purposes."[1]

Sir Henry Slesser also condemned the clause for giving no new right, but destroying the right of the unions to raise funds for political objects.[2]

Harney aimed at the weak point in Hogg's argument that if no one was being forced unwillingly to pay, the Bill would not diminish the political funds of the trade unions. The new method, calling for definite action on the part of those who were willing to subscribe, would be a less efficient method because mere inertia would prevent many from taking the trouble to send in their notice of willingness to pay.[3]

Mr. Spencer, the unintimidated trade unionist, regarded as the final straw the provision requiring the men to deliver their notices of willingness to contribute.[4] Human nature usually objects to making non-compulsory returns which require the application of a postage stamp and deposit in a letter-box.

The Labor members seized with avidity upon the answer given by the Labor Minister on April 28 to a question about the number of complaints under the method of contracting out during the year

1. Official Report, Vol. 205, Col. 1350
2. " " " 205, " 1385-86
3. " " " 205, " 1362
4. " " " 205, " 1475

ending Mar. 31, 1927. There had been only thirteen complaints, seven of which were justified and one held in abeyance.[1]

Snowden raised the question of how the Prime Minister could claim that the general strike justified the inclusion of a political levy clause.[2] Baldwin's speech had made a wide circuit around that point. It would have been interesting had he attempted to justify the inclusion of the clause, especially as he had previously opposed the Macquisten Political Levy Bill.

J. H. Thomas attempted to show the relation between the general strike and the political levy clause. This explanation is probably not the one which Baldwin would have given before the House. The trade union leaders for the most part, said Thomas, agreed that the general strike was a failure and would not be attempted again. Instead, political action in the House of Commons would be resorted to for obtaining reforms. The Government, realizing this, was now attempting to cripple the political power of the unions by decreasing their funds.[3]

Several Labor members dwelt on the point that if any trade union members had been forced to pay unwillingly under the existing system, the same pressure might be applied under the method of contracting in. It would merely be necessary to note who failed

1. Official Report, Vol. 205, Col. 1010
2. " " " 205, " 1798
3. " " " 205, " 1875

to contract in instead of who contracted out. The evil, if it existed, would not be removed by the Bill.

D The Bill in the House of Lords.

The Bill passed the House of Lords with little difficulty. It was reported for the First Reading on June 24. The Second Reading was moved by the Lord Chancellor, Viscount Cave, on June 30. A two-hour debate followed Viscount Haldane's motion of rejection. The debate was continued on July 4 and 5. The motion for the Second Reading was passed on July 5 by a vote of 152 to 26. In the Committee Stage the Bill was discussed on four days. No significant amendments were passed. The Third Reading was passed July 25, by a vote of 86 to 17, and on July 29 the Bill received the Royal Assent.

IV. Some conclusions drawn from a study of the Bill

A. Necessity of certain clauses doubtful

1. Clauses 1 and 2

A study of the Bill leads to the conclusion that the necessity of certain of the clauses is in doubt.

Clauses 1 and 2, dealing with illegal strikes and lock-outs and protection of persons refusing to take part in illegal strikes and lock-outs, might be of value if there was any great danger of the occurrence of such strikes or lock-outs. Such protection from a general lock-out seems rather unnecessary. No general lock-out has ever been attempted, and the Emergency Powers Act of 1920 had already given the Government power to deal with any which might occur.

The principal aim of the clause, however, as stated by the Attorney-General, is the prevention of another general strike. But the general strike of 1926 was without question an absolute failure. Not even the most radical of trade union leaders claim that it met with the slightest degree of success. Only the most radical predict that it will be attempted again. MacDonald, Snowden, and other Labor leaders of their type, frankly admitted that the futility of the general strike as an industrial weapon had been demonstrated beyond question. With the recurrence of the general strike so highly improbable, the necessity of legislation guarding against it

is extremely doubtful.

2. Clause 3.

The necessity of Clause 3, dealing with intimidation, is also in doubt. The existing laws provided penalties for intimidation by threat of material or physical damage. This clause merely extends the application of the term intimidation to cover the threat of injury "other than physical or material injury."

In the discussion in the House of Commons upon the question of intimidation, practically all of the examples given of cases of intimidation were acts which were dealt with by the existing laws, that is, intimidation by threat of physical or material injury. If the other type of intimidation was generally employed, it seems probable that its effect upon the workmen was not devastating. The existing laws were probably sufficient to deal with the cases of intimidation which would be most seriously regarded by the victims.

3. Clause 4

The change in the system of political levy would be necessary only if serious abuses existed under the system of contracting out. The Government failed to prove that this was the case. No definite statistics were given to indicate that many union members were forced to contribute unwillingly. On the contrary, the Government was forced to admit that in a year only seven cases of unwilling sub-

scriptions could be shown. Moreover, the new system did not remove all possibility of forcing union members to contribute to the levy against their will.

B. Definitions open to misinterpretation

1. Illegal strike

The Attorney-General claimed that the definition of illegal strike as given in Clause 1 would not apply to the ordinary sympathetic strike.

To be illegal a strike much satisfy two conditions. It must have an object "other than or in addition to the furtherance of a trade dispute within the trade or industry in which the strikers are engaged." It must also be "designed or calculated to coerce the Government either directly or by inflicting hardship upon the community."

Practically any strike might be interpreted as inflicting hardship upon the community. The decisive condition, then, is the first. Any sympathetic strike would satisfy this condition if it involved strikers in more than one trade or industry. It seems apparent that many sympathetic strikes might be judged illegal under this clause.

2. Intimidation.

In Clause 3 the vague wording of the definition of intimidation gives rise to difficulties. The problem of how a man could prove in court that he had experienced a reasonable apprehension of injury other than material or physical injury is an interesting one. Exactly what constitutes such injury is an open question and would probably be interpreted in many different ways by different magistrates. The trade unionist, if he wishes to choose his actions so as to avoid all danger of being accused of intimidation, will find himself compelled

to remain practically inactive.

The assurances of the Government that these clauses will not be misinterpreted are of little value, for the Government cannot guarantee the decisions of all the courts under which cases might at any time be brought.

C. Possibility of regarding the Bill as a declaration of class war.

1. Failure to invite co-operation of Labor leaders.

Those who choose to regard the Bill as a declaration of class war can make out a rather good case. The first charge against the Government is its failure to invite the co-operation of the Labor leaders in preparing the Bill. The Committee which investigated conditions was composed entirely of Conservatives. Labor members, if invited to participate, might have contributed valuable suggestions. Failure to ask their aid made the Bill definitely a party issue and possibly a class issue.

2. Conditions under which the Bill was introduced.

The Bill was introduced at a time when many of the trade unions were losing members and facing bankruptcy as a result of the fiasco of 1926. The coal strike had been completely broken; the general strike was an entire failure. The time seemed ripe for measures of conciliation, possibly for some plan, worked out in a non-partisan conference, which would make arbitration a more effective means of avoiding industrial conflict in the future. Instead, without definite warning and without much explanation the Government presented the Trade Disputes and Trade Unions Bill.

The trade union leaders regarded the Bill as a blow to the defeated; as an unfair advantage taken when they were unable to fight back.

3. Particular clauses considered indicative of class hostility.

Certain clauses of the Bill lend color to the theory that the whole thing is an expression of class hostility. Clause 1, possibly

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3. Particular clauses considered indicative of class hostility.

Certain clauses of the bill lend color to the theory that the whole thing is an expression of class hostility. Clause 1, possibly

to be interpretated as preventing sympathetic strikes, and Clause 3 creating a new form of intimidation which might seriously interfere with all picketing, are regarded by many as definite attempts to take away from the unions the effective use of the strike as a weapon. The clause dealing with the political levy has been considered a deliberate effort to cripple the political power of the unions.

The Attorney-General gave the general strike as the justification for the Bill. Certain trade union leaders professed to see no justification in the general strike for the inclusion of the clauses dealing with intimidation and with the political levy.

4. Industrial peace threatened by this interpretation of the Bill.

Whether or not the Bill may be justly regarded as a declaration of class war, the mere fact that such an interpretation may be placed upon it by many trade union leaders is a threat to industrial peace. The more aggressive will consider it as a challenge and will be constantly on the alert for opportunities to reply to it. Those who believe that the main points of the Bill were dictated by the employer class will seek retaliation in the ways remaining open to them.

V. Summary

The Trade Disputes and Trade Unions Bill of 1927 followed a series of legislative acts which since 1871 had been increasing the power and security of the trade union movement. The Acts of 1871 and of 1875-76 gave the unions legal recognition and assured the right to strike. The Trade Disputes Act of 1906 expressly permitted peaceful picketing and prohibited suing the unions for damages arising from tortious acts done by or on behalf of the unions. The Trade Unions Act of 1913 permitted any union with a majority in favor to collect a political levy. Members unwilling to pay might ask exemption.

The increasing number of trade union representatives in Parliament facilitated the passage of legislation favorable to the unions. A majority of the Labor members were trade unionists.

The precipitating causes of the Trade Disputes and Trade Unions Bill were the coal strike of 1925 and the general strike of 1926.

The coal dispute arose over a proposed reduction of the wage scale. When a general strike in support of the miners was threatened in 1925, the Government granted a subsidy to prevent immediate reduction of pay and appointed a commission to investigate the situation. The report of the commission, published in March, 1927, was accepted by the Government and the mine owners, but not by the miners.

A notice of reduced wages to go into effect May 1 brought the miners out on strike. The General Council of the Trade Unions Congress, taking over the conduct of the dispute, called the general strike, stating that it was a strike purely in furtherance of a trade dispute.

The strike lasted nine days and ended in failure, due largely to the effectiveness of volunteer labor.

Sir John Simon considered the strike illegal as it involved an attempt to coerce the Government. He quoted a decision by Justice Astbury in support of this view. Sir Henry Slesser supported the legality of the general strike.

The miners' strike ended in failure and the trade unions in general suffered as a result of the general strike.

The Trade Disputes and Trade Unions Bill was drawn up wholly by Conservatives and supported by the Prime Minister, who had given up his previous unwillingness to introduce a bill dealing with trade unions. The publication of the text of the Bill resulted in a declaration by the Labor leaders of their intention to fight it unreservedly.

The Attorney-General, in presenting the Bill for the Second Reading, declared that it defended four propositions: (1) The general strike is illegal and no one should be penalized for refusing to participate in it. (2) Intimidation is illegal. (3) No one should be forced to contribute unwillingly to a levy for political purposes. (4) Persons entering the Civil Service should give their undivided allegiance to the state.

The principal points of attack by the opposition were Clause 1, dealing with illegal strikes, Clause 3, on intimidation, and Clause 4, which substituted the method of political levy known as contracting out for the existing method.

Clause 1 it was claimed was not declaratory of the existing law, as the general strike was not illegal. Sir John Simon took the side of the Government on this point, opposing Sir Henry Slesser, the principal spokesman of the Labor Party on this question.

It was argued, moreover, that Clause 1 might be so interpreted as to make many types of strike illegal besides the so-called general strike.

The Labor members claimed that Clause 3, by widening the definition of intimidation, would tend to interfere seriously with the conduct of all strikes.

The political levy clause required all union members willing to subscribe to hand in written notice to that effect. The Labor members argued that this method would interfere with any collective action in gathering the political levy, that many who were willing to subscribe would be unwilling to take the trouble to turn in their notices, that the change was unnecessary as no serious misuses of the existing system could be proved, and that the new method would not destroy the possibility of forcing unwilling subscriptions.

The vagueness of the definitions in the Bill and the failure to include illegal lock-outs were severely criticized. The most important of the Government amendments made in the Committee stage were the inclusion of the illegal lock-out and an alteration of the definitions of intimidation and of illegal strikes. No very constructive amendments were proposed by the Labor Party.

The Bill was passed on June 23 by a vote of 354 to 139.

The necessity of the Bill is doubtful, as the failure of the general strike made its recurrence improbable, as no serious abuses of the "contracting out" method of political levy could be proved, and as laws on intimidation already in existence covered the more serious forms.

The Bill might easily be interpreted as an expression of class hostility. The Labor Party had no share in preparing it. It was introduced at a time when the power of the trade unions seemed to be waning. The general strike seemed no justification for introducing the clauses on the political levy and on intimidation, which some considered definite attacks on the power of the unions. Since the Bill lends itself to this interpretation its effect upon industrial peace will probably be injurious.

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APPENDIX

TRADE DISPUTES AND TRADE UNIONS BILL

(As Amended in Committee and on Report)

June 22, 1927

Declare and amend the law relating to trade disputes and trade unions, to regulate the position of civil servants and persons employed by public authorities in respect of membership of trade unions and similar organisations, to extend section five of the Conspiracy and Protection of property Act, 1875, and for other purposes connected with the purposes aforesaid. A. D. 1927

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: -

1. (1) It is hereby declared -

(a) that any strike is illegal if it -

(i) has any object other than or in addition to the furtherance of a trade dispute within the trade or industry in which the strikers are engaged; and

(ii) is a strike designed or calculated to coerce the Government either directly or by inflicting hardship upon the community; and

(b) that any lock-out is illegal if it -

(i) has any object other than or in addition to the furtherance of a trade dispute within the trade or industry in which the employers locking-out are engaged; and

(ii) is a lock-out designed or calculated to coerce the Government either directly or by inflicting hardship upon the community;

and it is further declared that it is illegal to commence, or continue, or to apply any sums in furtherance or support of, any such illegal strike or lock-out.

For the purposes of the foregoing provisions:-

(a) a trade dispute shall not be deemed to be within a trade or industry unless it is a dispute between employers and workmen, or between workmen and workmen, in that trade or industry, which is connected with the employment or non-employment or the terms of the employment, or with the conditions of labour, of persons in that trade or industry; and

(b) without prejudice to the generality of the expression "trade or industry" workmen shall be deemed to be within the same trade or industry if their wages or conditions of employment are determined in accordance with the conclusions of the same joint industrial council, conciliation board, or other similar body, or in accordance with agreements made with the same employer or group of employers.

(2) If any person declares, instigates, incites others to take part in or otherwise acts in furtherance of a strike or lock-out, declared by this Act to be illegal, he shall be liable on summary conviction to a fine not exceeding ten pounds or to imprisonment for a term not exceeding three months, or on conviction on indictment to imprisonment for a term not exceeding two years:

Provided that no person shall be deemed to have committed an offence under this section or at common law by reason only of his having ceased work or refused to continue to work or to accept employment.

(3) Where any person is charged before any court with an offence under this section no further proceedings in respect thereof shall be taken against him without the consent of the Attorney-General except such as the court may think necessary by remand (whether in custody or on bail) or otherwise to secure the safe custody of the person charged, but this subsection shall not apply to Scotland, or to any prosecution instituted by or on behalf of the Director of Public Prosecutions. A.D. 1927

(4) The provisions of the Trade Disputes Act, 1906, shall not, nor shall the second proviso to subsection (1) of section two of the Emergency Powers Act, 1920, apply to any act done in contemplation or furtherance of a strike or lock-out which is by this Act declared to be illegal, and any such act shall not be deemed for the purposes of any enactment to be done in contemplation or furtherance

of a trade dispute.

2. (1) No person refusing to take part or to continue to take part in any strike or lock-out which is by this Act declared to be illegal, shall be, by reason of such refusal or by reason of any action taken by him under this section, subject to expulsion from any trade union or society, or to any fine or penalty, or to deprivation of any right or benefit to which he or his legal personal representatives would otherwise be entitled, or liable to be placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the union or society, anything to the contrary in the rules of a trade union or society notwithstanding.

Protection of persons refusing to take part in illegal strikes or lock-outs.

(2) No provisions of the Trade Union Acts, 1871 to 1917, limiting the proceedings which may be entertained by any court, and nothing in the rules of a trade union or society requiring the settlement of disputes in any manner shall apply to any proceeding for enforcing any right or exemption secured by this section, and in any such proceeding the court may, in lieu of ordering a person who has been expelled from membership of a trade union or society to be restored to membership, order that he be paid out of the funds of the trade union or society such sum by way of compensation or damages as the court thinks just.

(3) As respects any strike or lock-out before the passing of this Act but since the first day of May, nineteen hundred and twenty-six, which, according to the law as declared by this Act, was illegal, this section shall have effect as if it had been in operation when the strike or lock-out took place.

Prevention of intimidation, etc.

3. (1) It is hereby declared that it is unlawful for one or more persons (whether acting on their own behalf or on behalf of a trade union or of an individual employer or firm, and notwithstanding that they may be acting in contemplation or furtherance of a trade dispute) to attend at or near a house or place where a person resides or works or happens to be, for the purpose of obtaining or communicating information or of persuading or inducing any person to work or to abstain from working, if they so attend in such numbers or otherwise in such manner as to be calculated to intimidate any person in that house or place, or to obstruct the approach thereto or egress therefrom, or to lead to a breach of the peace; and attending at or near any house or place in such numbers or in such manner as is by this subsection declared to be unlawful shall be deemed to be a watching or besetting of that house or place within the meaning of section seven of the Conspiracy and Protection of Property Act, 1875.

(2) In this section the expression "to intimidate" means to cause in the mind of a person a reasonable apprehension of injury to him or to any member of his family or of violence or damage to any person or property, and the expression "injury" includes injury other than physical or material injury.

(3) In section seven of the Conspiracy and Protection of Property Act, 1875, the expression "intimidate" shall be construed as having the same meaning as in this section.

(4) Notwithstanding anything in any Act it shall not be lawful for one or more persons, for the purpose of inducing any person to work or to abstain from working, to watch or beset a house or place where a person resides or the approach to such a house or place, and any person who acts in contravention of this subsection shall be liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding three months.

rovisions s to politi- al fund.

4. (1) It shall not be lawful to require any member of a trade union to make any contribution to the political fund of a trade union unless he has at some time after the commencement of this Act and before he is first thereafter required to make such a contribution delivered at the head office or some branch office of the trade union, notice in writing in the form set out in the First Schedule to this Act of his willingness to contribute to that fund and has not withdrawn the notice in manner hereinafter provided, shall be deemed

for the purposes of the Trade Union Act, 1913, to be a member who is exempt from the obligation to contribute to the political fund of the union, and references in that Act to a member who is so exempt shall be construed accordingly:

Provided that, if at any time a member of a trade union who has delivered such a notice as aforesaid gives notice of withdrawal thereof, delivered at the head office or at any branch office of the trade union, he shall be deemed for the purposes of this subsection to have withdrawn the notice as from the first day of January next after the delivery of the notice of withdrawal.

For the purposes of this subsection a notice may be delivered personally or by any authorised agent and any notice shall be deemed to have been delivered at the head or a branch office of a trade union if it has been sent by post properly addressed to that office.

(2) All contributions to the political fund of a trade union from members of the trade union who are liable to contribute to that fund shall be levied and made separately from any contributions to the other funds of the trade union and no assets of the trade union, other than the amount raised by such a separate levy as aforesaid, shall be carried to that fund, and no assets of a trade union other than those forming part of the political fund shall be directly or indirectly applied or charged in furtherance of any political object to which section three of the Trade Union Act, 1913,

applies; and any charge in contravention of this subsection shall be void.

(3) All rules of a trade union made and approved in accordance with the requirements of section three of the Trade Union Act, 1913, shall be amended so as to conform to the requirements of this Act, and as so amended shall be approved by the Registrar of Friendly Societies (in this Act referred to as "the Registrar") within six months after the commencement of this Act or within such further time as the Registrar may in special circumstances allow, and if the rules of any trade union are not so amended and approved as aforesaid they shall be deemed not to comply with the requirements of the said section.

(4) Notwithstanding anything in this Act, until the thirty-first day of December, nineteen hundred and twenty-seven, it shall be lawful to require any member of a trade union to contribute to the political fund of the trade union as if this Act had not been passed.

(5) If the Registrar is satisfied, and certifies, that rules for the purpose of complying with the provisions of this section, or for the purposes of the Trade Union Act, 1913, as amended by this Act, which require approval by the Registrar have been approved by a majority of the members of a trade union voting for the purpose, by the executive or other governing body of

applies; and any charge in contravention of this subsection shall be void.

(3) All rules of a trade union made and approved in accordance with the requirements of section three of the Trade Union Act, 1913, shall be amended so as to conform to the requirements of this Act, and as so amended shall be approved by the Registrar of Friendly Societies (in this Act referred to as "the Registrar") within six months after the commencement of this Act or within such further time as the Registrar may in special circumstances allow, and if the rules of any trade union are not so amended and approved as aforesaid they shall be deemed not to comply with the requirements of the said section.

(4) Notwithstanding anything in this Act, until the thirty-first day of December, nineteen hundred and twenty-seven, it shall be lawful to require any member of a trade union to contribute to the political fund of the trade union as if this Act had not been passed.

(5) If the Registrar is satisfied, and certifies, that rules for the purpose of complying with the provisions of this section, or for the purposes of the Trade Union Act, 1913, as amended by this Act, which require approval by the Registrar have been approved by a majority of the members of a trade union voting for the purpose, by the executive or other governing body of

such a trade union, or by a majority of delegates of such a trade union voting at a meeting called for the purpose, the Registrar may approve those rules and those rules shall thereupon have effect as rules of the union notwithstanding that the provisions of the rules of the union as to the alteration of rules or the making of new rules have not been complied with.

(6) Section sixteen of the Trade Union Act, 1871 (which provides for the transmission to the Registrar of annual returns by registered trade unions), shall apply to every unregistered trade union so far as respects the receipts, funds, effects, expenditure, assets and liabilities of the political fund thereof.

5. (1) Amongst the regulations as to the conditions of service in His Majesty's civil establishments there shall be included regulations prohibiting established civil servants from being members, delegates, or representatives of any organisation of which the primary object is to influence or affect the remuneration and conditions of employment of its members, unless the organisation is an organisation of which the membership is confined to persons employed by or under the Crown and is an organisation which complies with such provisions as may be contained in the regulations for securing that it is in all respects independent of, and not affiliated to any such organisation as aforesaid the membership of which is not confined to persons employed by or under the Crown or any federation comprising such organisations,

that its objects do not include political objects, and that it is not associated directly or indirectly with any political party or organisation:

Provided that the regulations made in compliance with the provisions of this section shall not prevent -

(a) any person who is at the commencement of this Act an established civil servant from remaining a member of any trade union or organisation not composed wholly or mainly of persons employed by or under the Crown of which he had, at the commencement of this Act, been a member for more than six months if under the rules thereof there had on the fourth day of April, nineteen hundred and twenty-seven, accrued or begun to accrue to him a right to any future payment during incapacity, or by way of superannuation, or on the death of himself or his wife, or as provision for his children; or

(b) any person employed at the commencement of this Act by or under the Crown who thereafter becomes an established civil servant from remaining, so long as he is not appointed to a position of supervision or management, a member of any trade union or organisation, not composed wholly or mainly of persons employed by or under the Crown, of which he is a member at the date when he so becomes an established civil servant, if under the rules thereof there has at that date accrued, or begun to accrue, to him a right to any future payment during incapacity or by way of superannuation, or on the death of himself or his wife, or as provision for his children; or

(c) a person who in addition to being an established civil servant is, apart from his service as such, also engaged in some

that its objects do not include political objects, and that it is not associated directly or indirectly with any political party or organisation:

Provided that the regulations made in compliance with the provisions of this section shall not prevent -

(a) any person who is at the commencement of this Act an established civil servant from remaining a member of any trade union or organisation not composed wholly or mainly of persons employed by or under the Crown of which he had, at the commencement of this Act, been a member for more than six months if under the rules thereof there had on the fourth day of April, nineteen hundred and twenty-seven, accrued or begun to accrue to him a right to any future payment during incapacity, or by way of supernumeration, or on the death of himself or his wife, or as provision for his children; or

(b) any person employed at the commencement of this Act by or under the Crown who thereafter becomes an established civil servant from remaining, so long as he is not appointed to a position of supervision or management, a member of any trade union or organisation, not composed wholly or mainly of persons employed by or under the Crown, of which he is a member at the date when he so becomes an established civil servant, if under the rules thereof there has at that date accrued, or begun to accrue, to him a right to any future payment during incapacity or by way of supernumeration, or on the death of himself or his wife, or as provision for his children; or

(c) a person who in addition to being an established civil servant is, apart from his service as such, also engaged in some

other employment or occupation from being a member, delegate, or representative of any trade union or organisation, of which the primary object is to influence or affect the remuneration or conditions of employment of persons engaged in that employment or occupation.

(2) If any established civil servant knowingly contravenes any of the provisions of the said regulations he shall be disqualified for continuing to be a member of the Civil Service.

(3) In this section -

(a) the expression "established civil servant" means a person serving in an established capacity in the permanent service of the Crown, and includes any person who, having been granted a certificate by the Civil Service Commissioners, is serving a probationary period preliminary to establishment; and

(b) the expression "conditions of employment" means in relation to persons other than persons employed by or under the Crown the conditions of employment of persons employed under a contract of service.

6. (1) It shall not be lawful for any local or other public authority to make it a condition of the employment or continuance in employment of any person that he shall or shall not be a member of a trade union, or to impose any condition upon persons employed by the authority whereby employees who are or who are not members of a trade union are liable to be placed in any respect either directly or indirectly under any disability or disadvantage as compared with other employees.

(2) It shall not be lawful for any local or other public authority to make it a condition of any contract made or proposed to be made with the authority, or of the consideration or acceptance of any tender in connection with such a contract, that any person to be

employed by any party to the contract shall or shall not be a member of a trade union.

(3) Any condition imposed in contravention of this section shall be void.

(4) There shall be added to section five of the Conspiracy and Protection of Property Act, 1875, the following provision, that is to say: -

"If any person employed by a local or other public authority wilfully breaks a contract of service with that authority, knowing or having reasonable cause to believe that the probable consequence of his so doing, either alone or in combination of his so doing, either alone or in combination with others, will be to hinder or prevent the discharge of the functions of the authority, he shall be liable, on summary conviction, to a fine not exceeding ten pounds or to imprisonment for a term not exceeding three months."

7. Without prejudice to the right of any person having a sufficient interest in the relief sought to sue or apply for an injunction to restrain any application of the funds of a trade union in contravention of the provisions of this Act, an injunction restraining any application of the funds of a trade union in contravention of the provisions of section one of this Act may be granted at the suit or upon the application of the Attorney-General.

In the application of this section to Scotland there shall be substituted therein for references to an injunction references to an interdict, and for the reference to the Attorney-General a reference to the Lord Advocate.

8. (1) This Act may be cited as the Trade Disputes and Trade Unions Act, 1927, and shall be construed as one with the Trade Union Acts,

1871 to 1917, and this Act and the Trade Union Acts, 1871 to 1917, may be cited together as the Trade Union Acts, 1871 to 1927.

(2) For the purposes of this Act -

(a) the expression "strike" means the cessation of work by a body of persons employed in any trade or industry acting in combination, or a concerted refusal, or a refusal under a common understanding of any number of persons who are, or have been so employed, to continue to work or to accept employment;

(b) the expression "lock-out" means the closing of a place of employment or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him in consequence of a dispute, done with a view to compelling those persons, or to aid another employer in compelling persons employed by him, to accept terms or conditions of or affecting employment; and

(c) a strike or lock-out shall not be deemed to be calculated to coerce the Government unless such coercion ought reasonably to be expected as a consequence thereof.

(3) This Act shall not extend to Northern Ireland, except that the provision of this Act relating to civil servants shall apply to civil servants employed in Northern Ireland in the administration of services with respect to which the Parliament of Northern Ireland has not power to make laws.

(4) The enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.